



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/631,802    08/04/00    VOGEL

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QM12/0813

EXAMINER
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ART UNIT	PAPER NUMBER
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3732  
DATE MAILED:

08/13/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/631,802

Applicant(s)

Vogel

Examiner

Robyn Kieu Doan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Aug 4, 2000
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menaged.

With regard to claims 1-3, Menaged discloses a barrette (figs. 1-3) comprising upper and lower arms (12, 13), a material (23) of a predetermined shape being attached to the arms of the barrette. Menaged does not disclose the material being wrapped around a clip's hinge, however, it would have been to one having ordinary skill in the art at the time the invention was made to employ the material being wrapped around the clip hinge, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burleson et al.

With regard to claims 1-3, Burleson et al discloses a clip (fig. 2) comprising upper and lower arms , a material (40, 42) of of a predetermined shape being attached to the arms of the

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barrette. Burleson et al does not disclose the material being wrapped around a clip's hinge, however, it would have been to one having ordinary skill in the art at the time the invention was made to employ the material being wrapped around the clip hinge, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art.

4. An examination of this application reveals that applicant is unfamiliar with patent prosecuting procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

5. The following claim 4, drafted by the examiner and considered to distinguish patentably over the art of record in this application, claim 4 presented to applicant for consideration:

A hair clip for protecting and holding hair in place comprising:  
a decorative base plate having a clasp, an inner upper arm, said base plate being pivotally connected to a lower inner arm at one end of said base plate by a hinge, said clasp being positioned between said base plate and said upper arm at another end, said lower arm further having an eye hook at one end to fasten with said clasp; and  
a unitary inner protector comprising a material having two large rectangular portions at each end and a smaller rectangular portion at an intermediate portion, said large rectangular portions being secured around said upper and lower arms with adhesive and said smaller rectangular portion being secured to and covered said hinge

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6. New formal drawings are required in this application because (see attached form 948).

Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the Patent and Trademark Office no longer prepares new drawings.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Anzivino, Sammon, Hanisco, Racho and Crosley are cited to show the state of the art with respect to a clip having a piece of material being secured around the arms of the clip.

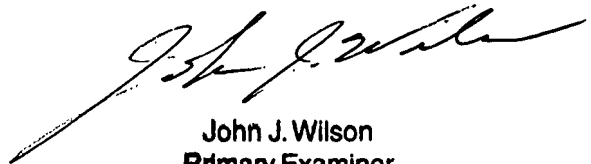
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Kieu Doan whose telephone number is (703) 306-9182.



Robyn Kieu Doan

Examiner

August 9, 2001



John J. Wilson  
Primary Examiner